

# BLIND, DEPARTMENT FOR THE[111]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 216B.6, the Department for the Blind hereby gives Notice of Intended Action to amend Chapter 1, “Administrative Organization and Procedures,” Chapter 2, “Personnel,” Chapter 3, “Department Procedure for Rule Making,” Chapter 6, “Library for the Blind and Physically Handicapped,” Chapter 8, “Appeals Process—Business Enterprises Program,” Chapter 9, “Adult Orientation and Adjustment Center,” Chapter 10, “Vocational Rehabilitation Services,” Chapter 11, “Independent Living Rehabilitation Services,” and Chapter 13, “Public Records and Fair Information Practices,” Iowa Administrative Code.

The proposed amendments update the rules by making technical and substantive changes and by eliminating subrule 1.13(4) related to tobacco use, which is now addressed by Iowa Code chapter 142D. The changes include updating the Department’s business hours, updating references to the Code of Federal Regulations, revising rule language to reflect current terminology and to delete superfluous text, revising a minimum age requirement, and making other changes to clarify existing text and procedure.

Any interested person may offer written suggestions or comments on the proposed amendments on or before September 15, 2012. Written comments should be addressed to Bruce K. Snethen, Iowa Department for the Blind, 524 Fourth Street, Des Moines, Iowa 50309-2364. Comments may also be submitted by facsimile to (515)281-1263 or by electronic mail to [Bruce.Snethen@blind.state.ia.us](mailto:Bruce.Snethen@blind.state.ia.us).

A public hearing will be held on September 15, 2012, at 10 a.m. in the Director’s Conference Room, First Floor, Department for the Blind, 524 Fourth Street, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 17A, 216B and 216D.

The following amendments are proposed.

ITEM 1. Amend rule 111—1.3(216B) as follows:

**111—1.3(216B) Location and information.** The central office of the department is located at 524 Fourth Street, Des Moines, Iowa 50309-2364, telephone (515)281-1333, (incoming WATS number (800)362-2587). ~~Distriet offices are located at 411 Third Street SE, Suite 745, Cedar Rapids, Iowa 52401-1811, telephone (319)365-9111, (incoming WATS number (888)346-9557); 2915 McClain Drive, Suite A, Cedar Falls, Iowa 50613-5266, telephone (319)268-2981, (incoming WATS number (888)378-4397). Information concerning department services may be obtained by contacting any of these offices.~~

ITEM 2. Amend rule 111—1.4(216B), definitions of “Division” and “Program administrator,” as follows:

“*Division*” means one of the ~~four~~ principal subunits of the department for the blind.

“*Program administrator*” means the chief of each of the ~~four~~ divisions of the department for the blind.

ITEM 3. Amend rule 111—1.12(216B) as follows:

**111—1.12(216B) Procurement.**

**1.12(1)** The procurement of goods and services for clients of the department shall be in accordance with the requirements of informed choice as defined in 34 CFR 361.52 (~~effective March 13, 1997~~) (as published in the Federal Register on January 22, 2001).

**1.12(2)** Procurement of goods. Except as provided in 1.12(1) above, the procurement of goods shall be conducted in accordance with procurement standards and procedures established at 34 CFR 80.36 (~~effective March 5, 2001~~ July 6, 2004) for state government grantees.

ITEM 4. Rescind subrule **1.13(4)**.

ITEM 5. Amend paragraph **2.1(2)“b”** as follows:

b. An individual may obtain full certification as a vocational rehabilitation counselor by demonstrating competency in the following areas.

~~1. (1)~~ Knowledge, understanding, and implementation of the department’s positive philosophy of blindness.

~~2. (2)~~ Knowledge of the department’s programs.

~~3. (3)~~ Skills in career planning and development.

~~4. (4)~~ Knowledge of placement techniques and practices.

~~5. (5)~~ Knowledge of occupational information, job site evaluation, and job analysis.

~~6. (6)~~ Knowledge of and ~~ability to develop~~ development of alternative techniques of blindness.

~~7. (7)~~ Knowledge of rehabilitation technology services.

~~8. (8)~~ ~~Disability knowledge and issues~~ Knowledge of disability and related issues.

~~9. (9)~~ Advocacy role.

~~10. (10)~~ Case management.

(11) Adjustment to blindness counseling.

(12) Assessment of consumer needs.

(13) Public education and outreach.

(14) Teamwork and problem solving.

ITEM 6. Amend subrule 2.1(3) as follows:

**2.1(3)** ~~Service specialist for the blind~~ *2 Senior service specialist for the blind 1 (vocational rehabilitation teacher)*. Certification shall be required of all vocational rehabilitation teachers employed by the department.

a. No change.

b. An individual may obtain full certification as a vocational rehabilitation teacher by demonstrating competency in the following areas.

~~1. (1)~~ Knowledge, understanding, and implementation of the department’s positive philosophy of blindness.

~~2. (2)~~ Knowledge of the department’s programs.

~~3. (3)~~ Assessment of consumer needs.

~~4. (4)~~ Teaching skills and practices.

~~5. (5)~~ ~~Ability to teach and develop~~ Knowledge and development of alternative techniques of blindness.

~~6. (6)~~ ~~General knowledge~~ Knowledge of rehabilitation technology services.

~~7. (7)~~ Knowledge and development of community resources.

~~8. (8)~~ ~~Disability knowledge and issues~~ Knowledge of disability and related issues.

~~9. (9)~~ Advocacy role.

~~10. (10)~~ Case management.

(11) Adjustment to blindness counseling.

(12) Public education and outreach.

(13) Teamwork and problem solving.

c. No change.

ITEM 7. Amend paragraph **2.1(4)“b”** as follows:

b. An individual may obtain full certification as an orientation center teacher by demonstrating competency in the following areas.

~~1. (1)~~ Knowledge, understanding, and implementation of the department’s positive philosophy of blindness.

~~2. (2)~~ Knowledge of the department’s programs.

~~3. (3)~~ ~~Ability to teach and develop~~ Knowledge and development of alternative techniques of blindness.

~~4. (4)~~ Technical knowledge of subject area(s) taught.

~~5. (5)~~ Teaching skills and practices.

~~6. (6)~~ Adjustment to blindness counseling ~~skills~~.

~~7. (7)~~ Understanding of career planning and development.

~~8. (8)~~ Knowledge of rehabilitation technology services.

~~9. (9)~~ ~~Disability knowledge and issues~~ Knowledge of disability and related issues.

~~10. (10)~~ Advocacy ~~role~~.

~~11. (11)~~ Teamwork and problem-solving ~~skills~~.

(12) Assessment of consumer needs.

(13) Public education and outreach.

ITEM 8. Amend subrule 3.4(1) as follows:

**3.4(1) Contents.**

a. At least 35 days before the adoption of a rule, the department shall cause a Notice of Intended Action to be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:

~~a. (1)~~ A brief explanation of the purpose of the proposed rule.

~~b. (2)~~ The specific legal authority for the proposed rule.

~~c. (3)~~ Except to the extent impracticable, the text of the proposed rule.

~~d. (4)~~ Where, when and how persons may present their views on the proposed rule.

~~e. (5)~~ Where, when and how persons may demand an oral proceeding on the proposed rule if the notice does not already provide for one.

b. Where inclusion of the complete text of a proposed rule in the Notice of Intended Action is impracticable, the department shall include in the notice a statement fully describing the specific subject matter of the omitted portion of the text of the proposed rule, the specific issues to be addressed by that omitted text of the proposed rule, and the range of possible choices being considered by the department for the resolution of each of those issues.

c. To facilitate transcription into ~~the alternative medium of braille, cassette tape or large-type format~~ media, the complete text of the proposed rule shall be published in the Notice of Intended Action whenever possible.

ITEM 9. Amend subrule 3.4(4) as follows:

**3.4(4) Provision in alternative media.** Mailed copies of Notices of Intended Action shall be provided in standard print format, unless an individual requests provision of the notices in ~~the alternative medium of braille, cassette tape or large-type format~~ media. Notices in the alternative media shall be provided in a timely manner.

ITEM 10. Amend subrule **3.12(3)**, second unnumbered paragraph, as follows:

To facilitate transcription into ~~the alternative medium of braille, cassette tape or large-type format~~ media, the complete text of the proposed rule shall be published in the Notice of Intended Action whenever possible.

ITEM 11. Amend **111—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202,~~ and Iowa Code section 25B.6.

ITEM 12. Amend rule 111—6.2(216B) as follows:

**111—6.2(216B) Services.** Services include, but are not limited to, provision and circulation of books, magazines and videos in braille, ~~recorded disc~~, recorded cassette, digital audio, digital cartridge, electronic text, descriptive video, or large-type formats; provision and maintenance of playback equipment; transcription, production and duplication of standard print material into braille, ~~recorded cassette~~ digital audio, large print, or electronic text formats; and research, acquisition by loan or purchase, or production of instructional materials.

**6.2(1)** Transcription of standard print reading materials into alternative media. Transcription of standard print reading materials into the alternative media of braille, ~~cassette tape~~ digital audio, large print, or electronic text shall be provided to the extent that resources are available and following research of the library for the blind and physically handicapped and other libraries, volunteer production agencies, and vendors which confirm that the requested item is not available in any alternative media which can be effectively used by the library patron; or that the item exists, but cannot be acquired by loan, purchase, or duplication. Priority will be given to requests which enable persons to meet a vocational or educational need. Transcription is one method of providing access to standard print reading materials, and will be used in combination with other resources in order to provide as much support as possible to each person requesting transcription services.

Other requests will be honored contingent upon availability of resources.

**6.2(2)** Reserved.

ITEM 13. Amend subrule 6.4(3) as follows:

**6.4(3)** Applicants who use only large print materials ~~need not~~ must obtain the certification of a competent authority.

ITEM 14. Amend subrule 8.1(1) as follows:

**8.1(1) Step 1: Informal conciliation.** This is the necessary first step in the process to resolve any grievance. Either the vendor or the staff can commence informal conciliation. Informal conciliation must occur before any other steps in the grievance process can be used.

Informal conciliation occurs all the time and is not usually given a name by the participants, but is sometimes called administrative review. It can, but does not necessarily, involve a personal meeting between the vendor and the staff. Informal conciliation occurs when either the vendor or the staff is dissatisfied with the action of the other and contacts the other to try to work out the dissatisfaction. This contact can be by phone, by letter, or in person and usually involves discussion and negotiation of the point over a period of time. Both the vendor and staff have an interest in working out grievances informally since this is the least costly, least time-consuming, and least disruptive way of resolving differences. However, both the vendor and the staff have the right to ~~stick~~ adhere to their opinion and to move to the next step in the grievance process if informal conciliation does not resolve the grievance in a manner satisfactory to them. If either the vendor or the staff remains dissatisfied after a good-faith effort by both to resolve the grievance, then either the vendor or staff can move to the next allowable step.

ITEM 15. Amend **111—Chapter 8**, implementation sentence, as follows:

~~This rule is~~ These rules are intended to implement Iowa Code chapter 216D.

ITEM 16. Amend rule 111—9.2(216B) as follows:

**111—9.2(216B) Eligibility.**

**9.2(1)** Enrollment in the adult orientation and adjustment center shall be limited to persons ~~46~~ 17 years of age or older.

**9.2(2)** Clients of vocational rehabilitation services or independent living rehabilitation services shall be eligible for admission to the adult orientation and adjustment center as specified in their individual ~~written rehabilitation plan~~ for employment.

**9.2(3)** No change.

ITEM 17. Amend rule 111—10.2(216B) as follows:

**111—10.2(216B) State plan.** The state plan for vocational rehabilitation of the blind of Iowa is developed by the department pursuant to federal regulations and submitted to the United States Department of Education, rehabilitation services administration. The state plan delineates the scope of vocational rehabilitation services to individuals and to groups, ensures that written policies are maintained, and provides guidelines for expenditure of funds.

In accordance with Section 34 CFR 361.29 of the federal regulations (as published in the Federal Register on January 22, 2001), reports of statewide studies and evaluations are available to the public for review.

ITEM 18. Amend subrule 10.4(2) as follows:

**10.4(2)** Whenever changed circumstances, such as a decrease in fiscal or personnel resources or an increase in its program costs, indicate that the department may no longer be able to provide a full range of services, as appropriate, to all eligible applicants, the department will invoke an order of selection policy based upon Section 34 CFR 361.36 of the federal regulations (as published in the Federal Register on January 22, 2001).

ITEM 19. Amend subrule 10.6(3) as follows:

**10.6(3)** The following services are exempt from a consideration of comparable services and benefits under subrule 10.6(1) above: (1) assessment for determining eligibility and vocational rehabilitation needs; (2) counseling and guidance; (3) referral services to other agencies; (4) job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services; (5) rehabilitation technology services; and (6) postemployment services; and (7) training in the adult orientation and adjustment center.

ITEM 20. Amend subrule 10.7(3) as follows:

**10.7(3)** For those individuals who have been determined incapable of achieving an employment outcome, their circumstances will be reviewed annually, if requested, unless they have refused services, are no longer in the state, their whereabouts are unknown, or they have a medical condition which is rapidly progressive or terminal.

ITEM 21. Amend paragraph **10.8(3)“b”** as follows:

~~b. The department, in conjunction with the Iowa department of education, division of vocational rehabilitation services, will maintain a list of individuals who are impartial, qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services. Potential mediators will be identified by the division of vocational rehabilitation services utilizing three primary sources: mediators used by the department of education, the Iowa peace institute, and the Iowa extension service. The department and the division of vocational rehabilitation services will train potential mediators in the laws and regulations governing vocational rehabilitation.~~

ITEM 22. Amend paragraph **10.8(3)“e”** as follows:

~~e. All agreements reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement. This agreement shall be prepared by the mediator and mailed within seven days to all parties. The decision and a record of any action resulting from the decision shall be entered into the case file.~~

ITEM 23. Amend paragraph **10.8(4)“e”** as follows:

~~e. Within 30 days of the completion of the formal hearing, the decision of the impartial hearing officer shall be mailed to the applicant or eligible individual or, if appropriate, the applicant's or eligible individual's representative, and to the director. A representative of the Iowa client assistance program who has attended the formal hearing shall also receive a copy of the decision. The applicant or eligible individual may receive a copy of the ~~tape-recorded~~ transcript of the hearing upon written request to the director. The decision and a record of any action resulting from the decision shall be entered into the case file.~~

The decision of the impartial hearing officer shall be based upon the provisions of the approved state plan, the federal Vocational Rehabilitation Act of 1973, federal vocational rehabilitation regulations, and state rules and policies.

ITEM 24. Amend subrule 10.8(5) as follows:

**10.8(5) Documents provided.** Transcripts, notices, responses, and other documents which are an integral part of the dispute resolution process shall be provided to involved parties in standard print format. An applicant or eligible individual, or representative of an applicant or eligible individual, or other involved party may request provision of documents in ~~the an~~ alternative medium of ~~braille, cassette tape, or large-type format~~. Documents in the alternative medium shall be provided in a timely manner.

ITEM 25. Amend rule 111—10.10(17A) as follows:

**111—10.10(17A) Forms.** The following forms are used by the vocational rehabilitation services program:

1. Application for rehabilitation services—used for application for vocational rehabilitation services from the department. ~~Also contains statement of compliance with the Civil Rights Act of 1964 and release of information form.~~

2. Individual plan for employment (IPE)—used by the counselor/teacher and individual to develop a blind person's program for rehabilitation. ~~Printed on the form are~~ The IPE must contain the following statements: mutual agreement and understanding between individual and counselor; department's program responsibilities; individual responsibilities; review and evaluation of progress toward objectives and goal; and individual rights and remedies. In addition, the IPE provides for mutual development of a vocational goal, summary of planned services, accepted criteria for review and evaluation purposes and individual acceptance and response.

ITEM 26. Amend rule 111—11.2(216B) as follows:

**111—11.2(216B) Services.** ~~In addition to appropriate vocational rehabilitation services enumerated in rule 111—10.5(216B), independent~~ Independent living rehabilitation services may include, but are not limited to: teaching alternative techniques of blindness; guidance and counseling; orientation and mobility training; referral; recreational activities; provision and instruction in the use of telecommunication, sensory and other technological aids and devices; and provision of technical assistance through consultation with health care providers and other agencies and organizations who serve blind persons.

Joint planning between the eligible individual and the staff will be employed in the development of an independent living rehabilitation plan (ILRP) in order to identify independent living objectives and services that will be most beneficial in achieving an eligible individual's independence. Eligible individuals will be given the option of waiving the right to a formal, detailed ILRP and may choose to simply list their independent living objectives.

ITEM 27. Amend rule 111—11.4(216B) as follows:

**111—11.4(216B) Application for independent living services for older individuals who are blind.** The application delineates expenditure of funds, establishes program goals, identifies the scope and extent of services, and defines a plan of operation. The application is submitted to the U.S. Department of Education, Rehabilitation Services Administration. The application assures compliance with federal regulations governing the administration of this program, identifies reporting requirements, and ensures that the following activities will be conducted:

1. Needed services that contribute to the maintenance of, or the increased independence of, older individuals who are blind;

2. Capacity-building efforts, including collaboration with other agencies and organizations; and

3. Outreach to promote community awareness, involvement, and assistance.

~~11.4(1) to 11.4(4) Rescinded IAB 6/26/02, effective 7/31/02.~~

ITEM 28. Amend paragraph **11.9(3)“b”** as follows:

~~b. The department in conjunction with the Iowa department of education, division of vocational rehabilitation services, will maintain a list of individuals who are impartial, qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation and independent living rehabilitation services. Potential mediators will be identified by the division of vocational rehabilitation services utilizing three primary sources: mediators used by the department of education, the Iowa peace institute, and the Iowa extension services. The department and the division of vocational rehabilitation services will train potential mediators in the laws and regulations governing vocational rehabilitation and independent living rehabilitation services.~~

ITEM 29. Amend paragraph **11.9(4)“e”** as follows:

~~e. Within 30 days of the completion of the formal hearing, the decision of the impartial hearing officer shall be mailed to the applicant or eligible individual or, if appropriate, the applicant’s or eligible individual’s representative and to the director. A representative of the Iowa client assistance program who has attended the formal hearing shall also receive a copy of the decision. The applicant or eligible individual may receive a copy of the tape-recorded transcript of the hearing upon written request to the director.~~

The decision of the impartial hearing officer shall be based upon the provisions of the approved state plan for independent living, the federal Rehabilitation Act, and state rules and policies.

ITEM 30. Amend subrule 13.3(2) as follows:

**13.3(2) Office hours.** Open records shall be made available during all customary office hours, which are between 8 a.m. and 5 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.